

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

**Petition of BNE Energy Inc. for a
Declaratory Ruling for the Location, Construction
and Operation of a 4.8 MW Wind Renewable
Generating Project on Winsted-Norfolk Road in
Colebrook, Connecticut (“Wind Colebrook North”)**

Petition 984

April 19, 2011

**PETITIONER BNE ENERGY INC.’S OBJECTION
TO FAIRWINDCT, INC., STELLA AND MICHAEL SOMERS AND SUSAN
WAGNER’S REVISED WITNESS LIST**

Petitioner BNE Energy Inc. (“BNE”) hereby objects to the Revised Witness and Exhibit List filed by FairwindCT, Inc., Stella and Michael Somers and Susan Wagner (collectively, the “Grouped Parties),” dated April 7, 2011. Specifically, BNE objects to the Grouped Parties’ disclosure of Frederick L. Riese of the Connecticut Department of Environmental Protection (“DEP”) “or other such DEP employee(s) who shall submit comments to the Siting Council in these matters” as witnesses. Mr. Riese and/or other DEP employees should not be required to testify at the hearing because (1) neither Mr. Riese nor any other DEP employee has filed pre-filed testimony and (2) the DEP is not a party to this proceeding and Mr. Riese submitted comments on the DEP’s behalf pursuant to the Council’s request in accordance with relevant statutory requirements.

On February 7, 2011, the Council issued a very clear and detailed Hearing Notice and scheduling order in this proceeding. As is the Council’s practice, the Council required that all testimony and exhibits be pre-filed by March 15, 2011. In addition, the hearings are specifically reserved to provide Petitioner, parties and intervenors with “an opportunity to cross-examine positions.” The Council does not allow direct testimony at the hearing. Since no party or intervenor has filed pre-filed testimony for Mr. Riese or any other DEP employee on or before

March 15, 2011, there is no testimony on which to cross-examine. As such, Mr. Riese and/or DEP employees are improperly listed on the Grouped Parties' revised witness list.

Furthermore, neither Mr. Riese nor DEP is a participant in this proceeding, nor can Fairwind credibly argue that they are. The DEP has not sought legal standing in this proceeding. DEP simply submitted written comments pursuant to Conn. Gen. Stat. § 16-50j (h), which directs the Council to consult with and solicit written comments from various state agencies. Submission of written comments does not and cannot constitute pre-filed testimony or legal participation in a proceeding. Rather, Conn. Gen. Stat. § 16-50j (h) makes it clear that agency comments are just that—comments and not testimony.

It is clear from the Grouped Parties' revised witness list that the Grouped Parties continue to ignore the Council process and the importance of the Hearing Notice. The inclusion of Mr. Riese and/or other unnamed DEP employees as proposed witnesses is improper both procedurally and substantively. As such, BNE objects to the inclusion of Mr. Riese and/or other unnamed DEP employees as witnesses in this proceeding.

Respectfully Submitted,
BNE ENERGY INC.

By: /s/ Carrie Larson
Carrie L. Larson
Pullman & Comley, LLC
90 State House Square
Hartford, CT 06103-3702
Juris No. 409177
860-424-4300 (p)
860-424-4370 (f)
Its Attorneys

CERTIFICATION

This is to certify that a copy of the foregoing has been mailed this date to all parties and intervenors of record.

Nicholas J. Harding
Emily A. Gianquinto
Reid and Riege, P.C.
One Financial Plaza
Hartford, CT 06103

Richard Roznoy
11 School Street
P. O. Box 850
East Granby, CT 06026

John R. Morissette (electronic format only)
Manager-Transmission Siting and Permitting
The Connecticut Light & Power Company
P.O. Box 270
Hartford, CT 06141-0270

Christopher R. Bernard (electronic format only)
Manager-Regulatory Policy (Transmission)
The Connecticut Light & Power Company
P.O. Box 270
Hartford, CT 06141-0270

Joaquina Borges King (electronic format only)
Senior Counsel
The Connecticut Light & Power Company
P.O. Box 270
Hartford, CT 06141-0270

Thomas D. McKeon
First Selectman
Town of Colebrook
P.O. Box 5
Colebrook, CT 06021

Jeffrey and Mary Stauffer
21 Brightwood Drive
Woodbridge, CT 06525

David R. Lawrence MD
Jeannie Lemelin LPN
30 Flagg Hill Road
Colebrook, CT 06021

Walter M. Zima
Brandy Grant
12B Greenwood Turnpike
Winsted, CT 06098

David M. Cusick
Howd, Lavieri & Finch, LLP
682 Main Street
Winsted, CT 06098

Eva Villanova
134 Forest Avenue
Winsted, CT 06098

/s/ Carrie L. Larson
Carrie L. Larson

ACTIVE/72955.6/BHEIPLE/2445836v2